





# Town of Tiburon

## STAFF REPORT

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The floor area of the existing house would be increased by 1,262 square feet to 3,200 square feet, which is the maximum floor area for a lot of this size. As a result of the removal of several portions of the existing house, the lot coverage on the site would actually decrease by 153 square feet to a total of 2,169 square feet (18.1%), which is less than the 30.0% maximum lot coverage permitted in the R-1 zone.

The proposed upper floor addition would extend to within 6 feet of the east (right) side property line. As the R-1 zone requires a side yard of 8 feet, a variance is requested for reduced side yard setback.

A color and materials board has been submitted, and will be present at the meeting for the Board to review. The structure would be finished with light brown colored stucco siding and grey and white trim, with dark grey roof tiles.

### ANALYSIS

#### Design Issues

This lot is situated on the uphill side of Hilary Drive. Adjacent properties to the rear along Delmar Drive are located at elevations well above that of the site of the subject house. As a result, the proposed second story addition should not interfere with the Richardson Bay views of these neighboring homes. Large mature trees uphill from the house would also provide screening of the existing and proposed portions of the structure.

The proposed upper floor would extend above the footprint of the existing house, which is roughly in line with the locations of the homes on either side of the property at 687 and 691 Hilary Drive. The proposed upper floor would therefore not loom over the rear yards of either adjacent lot.

The western side elevation of the proposed upper floor addition would include two small, high bathroom windows and one larger bedroom window. The eastern elevation would include one small bathroom window, two larger bedroom windows and a larger family room window. Although these windows are likely too high to create privacy impacts for the ground floor living spaces of the adjacent homes on both sides, the bedroom and family room windows could create unwanted privacy impacts on the rear yards for those properties. A large redwood tree to the rear of the home at 687 Hilary Drive would likely screen the views from the windows on the western side of the proposed addition. On the eastern side of the addition, the bedroom windows would be set well back from the common property line with the home at 691 Hilary Drive, and the family room window would be directly opposite the adjacent home, lessening any potential privacy impacts from those windows.

The adjacent home to the west at 687 Hilary Drive has clerestory windows on its eastern side, facing the subject house. The proposed second story addition would appear to block a substantial portion of the sunlight that these windows currently receive. The Design Review Board should evaluate the potential sunlight impacts on this adjacent residence and determine if alterations to the proposed addition are necessary to address this situation.



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The existing house was constructed with a 6 foot east side yard setback which was consistent with the Marin County zoning requirements in effect at that time, prior to the incorporation of the Town of Tiburon. The adjacent home to that side at 691 Hilary Drive was also developed with a 6 foot setback to the shared side property line. The proposed upper floor addition would extend this nonconforming condition along the same setback line. However, only the 15'3" width of the family room portion of the proposed addition would encroach into this setback.

### **Zoning**

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the R-1 zone with the exception of the previously noted side yard setback variance.

### Variance

In order to grant the requested variance, the Board must make all of the following findings required by Section 4.03.05 of the Tiburon Zoning Ordinance:

1. ***Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.***

As previously noted, the existing house was developed with a 6 foot eastern side yard setback, which was consistent with the Marin County zoning requirements in effect at that time, prior to the incorporation of the Town of Tiburon. The rear of the lot is somewhat steep, limiting the ability to add onto this portion of the lot. These characteristics create special circumstances that limit the areas and extent of construction on the site; the strict application of the side yard setback requirement on such a lot would deprive the applicant of the development potential enjoyed by other homes in the vicinity.

2. ***The variance will not constitute a grant of special privileges, inconsistent with the limitation upon other properties in the vicinity and in the same or similar zones.***

Numerous other properties in the R-1 zone and similar single-family residential zones have received variances for reduced side yard setbacks to continue the line of an existing nonconforming residence.

3. ***The strict application of this Ordinance would result in practical difficulty or unnecessary hardship.***

The strict application of the required side yard setback would force the proposed upper floor addition to be set back 2 feet from the line of the existing house



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below. Although such additional setbacks are often encouraged to provide appropriate articulation for upper floor additions, the limited width of the addition within the required setback, and the placement of the remainder of the addition 22 feet further back from the side property line, should provide adequate visual articulation for this addition. Therefore, requiring the addition to be further set back from the side property line would place a hardship on the property owner that is unnecessary for the desired visual appearance of the addition.

**4. *The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.***

As described above, the proposed project would not create any significant visual or privacy impacts on neighboring homes.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variance.

### **Public Comment**

As of the date of this report, one letter has been received regarding the project from the owners of the home across the street at 692 Hilary Drive, raising concerns about the visual scale of the proposed addition when viewed from the street. Another letter has been received from the owner of 699 Hilary Drive, objecting to the principle of second story homes in this neighborhood.

### **RECOMMENDATION**

The Board should review this project with respect to Zoning Ordinance Sections 4.02.07 (Guiding Principles) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15301. If the Board wishes to approve the project, Staff would recommend that the attached conditions of approval be applied if the project is approved.

### **ATTACHMENTS**

1. Conditions of approval
2. Application and supplemental materials
3. Letter from D.L. & M.R. Di Mare, dated April 12, 2005
4. Letter from Joe Keller, dated April 12, 2005
5. Submitted plans

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### CONDITIONS OF APPROVAL

**689 HILARY DRIVE**

**FILE #20508**

1. This approval shall be used within three (3) years of the approval date, and shall become null and void unless a building permit has been issued.
2. The development of this project shall conform with the application dated by the Town of Tiburon on March 28, 2005, or as amended by these conditions of approval. Any modifications to the plans of March 28, 2005, must be reviewed and approved by the Design Review Board.
3. Plans submitted to the Building Division for plan check shall be identical to those approved by the Design Review Board. If any changes are made to the approved Design Review plans, the permit holder is responsible for clearly identifying all such changes when submitted to the Building Division for plan check. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the submitted plans. A list describing in detail all such changes shall be submitted and attached to the building plans, with a signature block to be signed by the Planning Division Staff member indicating that these changes have been reviewed and are approved, or require additional Design Review. All changes that have not been explicitly approved by Staff as part of the Building Plan Check process are not approved. Construction that does not have Planning Division approval is not valid and shall be subject to stop work orders and may require removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All exterior lighting fixtures must be down light type fixtures. The lighting fixtures indicated on the submitted plans are not approved, and shall be replaced with appropriate down lights.
6. All skylights shall be bronzed or tinted and no lights shall be placed in the wells.